GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Service – Cooperation Department- Sri M. Hanuma Naik, Asst. Registrar, Kavali, Nellore District – Revision Petition against the punishment of dismissal from service- Allowed- Orders issued.

AGRICULTURE AND COOPERATION (VIG.II) DEPARTMENT

G.O.Rt.No.626 Date:02-09-2016.

Read the following :-

1. Proceedings Rc.No.19547/2012, dt.3.7.2015 of Addl. Registrar (Services) O/o the CC&RCS,AP.,Hyd.
2. Appeal Petition by Sri M.Hanuma Naik AR(dismissed) before the CC&RCS, AP.,Hyd, dated 6.10.2015
3. Proceedings Rc.No.19547/2012,dt.17.12.2015 of -**`1 CC&RCS,AP.,Hyd.
4. Revision Petition by Sri M.Hanuma Naik,AR(dismissed), dt. 8.1.2016
5. From CC&RCS, AP.,Hyd.Lr.No.19547/2012/NG-III dt.31.3.2016.

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ORDER:-

Sri M. Hanuma Naik, Asst. Registrar , Kavali, Nellore District was dismissed from service vide reference 1st read above, on the basis of the following charges which were held proved :-

Article of charge-I:- That Sri M.Hanuma Naik, Assistant Registrar/Ex-Liquidator, Gudur Division Teachers CHBS, Venkatagiri in SPSR Nellore District has failed to discharge his duties as a liquidator and also failed to safe guard the assets of the society.

Article of Charge-II:- That Sri M. Hanuma Naik, Assistant Registrar/Ex-Liquidator, Gudur Division Teachers CHBS, Venkatagiri in SPSR Nellore district, has intentionally violated the Andhra Pradesh Coop.Act and Rules for his personal gain.

2. Sri M. Hanuma Naik, Asst. Registrar, (dismissed from service) submitted **Appeal Petition** under rule 33 of APCS(CCA)Rules,1991 to the Commissioner for Cooperation & Registrar of Cooperative Societies, A,P, Hyderabad vide reference 2nd read above on the following grounds:-

(i) I am a direct recruit of Asst. Registrar of Coop.societies under Group-II services of APPSC 2005 against the substantive vacancies in the Department. The Disciplinary Authority has failed to establish any lapses on my part which shall be brought to the notice of the APPSC through the Govt. of AP as per Rule 44 of CCA Rules besides I was not supplied any copy of advice from the Commission ie., APPSC to that effect along with the impugned order.

(ii) Any order passed by the Liquidator u/s 66 of APCS Act are appeal able u/s 76 (Appeals) and Revision can also be filed u/s 77 of the Act with in a period of 60 days specifically being the limitation period by way appeal to that Registrar/Govt. If the limitation period exceeds even the Registrar has to refer to the matter to the APCT only under section 76(2) (3) of APCS Act. In the instant case the DCO, Gudur as well as DCO, Nellore have intentionally violated the procedure and taken law into their own hands.

(iii) A petition was already filed by a member before the Hon'ble AP Cooperative Tribunal challenging the validity of the very post of liquidator as on that date and the actions taken by him. When the matter is still pending before Hon'ble AP Cooperative Tribunal the Inquiry Officer as well as Presenting Officer have hurriedly conducted hasty Inquiry and indulged contempt of court before the AP Coop.Tribunal , where they do not have "Locus standi".

(iv) During the course of inquiry the Inquiry Officer has apparently violated u/r 20 of APCS(CCA) Rules,1991 as follows:-

(a) The Inquiry Officer shall have to call the petitioner and witnesses to the Inquiry along with the charged officer . He has also not called for the 15 participated bidders and ascertaining the facts.

(b) The charged Officer shall invariable be given opportunity to cross examine the witnesses.

(c) The Documents which are relied by either the Presenting Officer or Inquiry Officer shall be given to the delinquent officer and shall be marked as document in the Inquiry through witness only.

(d) Even the Presenting Officer did not state his case before Inquiry officer nor it is found from the report of the Inquiry Officer.

(e) Quantum of loss of the society as well as amount of misappropriation if any, could not be established. As such the findings of the Inquiry Officer with the above lapses on his part and his findings are defective and with malafide intension.

(v) One Sri L. Dasaradha Ramaiah has approached Hon'ble Upalokayuktha, I have not received any Summons from the Hon'ble Court and hence if any order passed against me could not bind over. Sri Babu has approached Hon'ble Upalokayukta with fake documents in No.817/2013/B2 since the above individual has aggrieved on fake documents as I being the liquidator as refused to entertained the same.

(vi) The factual report has been submitted before the Hon'ble Lokayhuktha. But the DLCO, Gudur who is also the presenting officer noted above, has falsely confirmed the fake claim of the petitioner with vested interest. There upon the Hon'ble Lokayuktha has referred the matter to the appointing authority and observed with a direction to give on opportunity to both petitioner as well as the public servant and dispose the same. But unfortunately the Appointing Authority has solely relied on the words and reports of the DLCO, Gudur and buried natural justice without given an opportunity to defend myself.

(vii) Hence, it is a clear case of violation of directions of the Hon'ble Lokayukta order dt.27.3.2015 . In view of the above material lapses on the part of the Appointing Authority who caused injustice to me and to my family might have been forced to come to that extreme steps and axed my services for no fault of mine.

(viii) Apart from the lapses at above the orders issued by Appointing Authority is not express and bonafide orders of the Appointing Authority and not maintainable before legal scrutiny ."

3. The Commissioner for Cooperation & Registrar of Cooperative Societies, A,P, Hyderabad **considered the Appeal Petition** submitted by Sri M. Hauma Naik, Assistant Registrar(Dismissed) **and rejected** the same vide his proceedings No.19547/2012, dated 17.12.2015 and the orders of dismissal issued by Addl. Registrar(Services) are upheld.

4. Sri M. Hanuma Naik (dismissed from service) **filed Revision petition dt. 8.1.2016**, under Rule (40) of APCS(CCA) Rules,1991 **before the Government** in the reference 4th read above on the following main grounds:-

(1) It is submitted that I was holding the post of Asst.Registrar of Coop. Societies, which is first Gazetted post in Coop.Dept. vide G.O.Ms.No.274, A&C(Coop.II) Dept., dated 30.10.2004 and incorporated in the presidential order, 1975, as such any disciplinary action against me in the instant case shall be issued by the CC&RCS or Government only. Here the appeal authority has encroached the powers of the Government through back door illegally and Arbitrary.

(2) The Disciplinary Authority has failed to consult the APPSC with the record of inquiry to the AP Public Service Commission for its advice and such advice shall be taken into consideration before making an order of imposing any such penalty on the Govt. servant vice G.O.Ms.No.22, GA (Ser . C) Dept., dated : 30.01.2004."

5. The Commissioner for Cooperation & Registrar of Cooperative Societies has reported in the reference 5th read above that, the nomenclature of Cooperative Sub Registrar has been changed as Assistant Registrar vide G.O.Ms.No.274, Agriculture & Cooperation (Coop.II) Department, dt.30.10.2004, but there is no specification that the Assistant Registrar is the First Level Gazetted post in the Cooperation Department and the proposal to insert the post of Assistant Registrar at Sl.No.7-A in the 3rd Schedule of the AP Public Employment (Organization of Local cadre and Regulation of Direct Recruitment) Order,1975, after Sl.No.7, Deputy Registrar of Coop. Societies is still under consideration of the Ministry of Home Affairs as per the proposals sent by the Govt. of A.P. Further no amendments are made to the AP Cooperative Subordinate Service Rules and as well as APCS(CCA) Rules, till date. He has also reported that as per Rule 9 read with Rule 14 (2) of APCS (CCA) Rules 1991, consultation with APPSC for advice is not mandatory. Hence, the contentions of the appellant are not tenable.

6. After careful examination of the entire issue with the material made available, Government observed that by virtue of orders issued in G.O.Ms.No.274, Agriculture & Cooperation (Coop.II) Department, dated 30.10.2004, the post of Assistant Registrar is a first level Gazetted Post and Government alone is the competent authority to award punishment. Publication of orders through notification in the official Gazette is the criteria and all the Cooperative Sub-Registrars are discharging their duties as Assistant Registrars of Cooperative Societies which has been agreed and adopted, Further as per Regulation 17 of Commission's Regulations and Rules of Procedure, , it is necessary to consult the APPSC on the proposal to dismiss an officer from service. Further, the dismissal Orders issued by the Addl. Registrar O/o the Commissioner for Cooperation & Registrar of Cooperative Societies, AP. Hyderabad vide his proceedings

No.19547/2012, dt.3.7.2015 in respect of Sri M. Hanuma Naik, Asst. Registrar is violative of the provisions under APPSC Regulations, 1963 as the AP Public Service Commission was not consulted and not obtained its concurrence prior to issue of proceedings for his dismissal from service . The rejection of the appeal of Sri M. Hanuma Naik, Assistant Registrar(under dismissal) by the Commissioner for Cooperation & Registrar of Cooperative Societies, Hyderabad is also not proper and not valid under the above statutory provisions even though no amendments to AP Coop. Service Rules were issued incorporating the post of Asst. Registrar as First Level Gazetted post on the basis of Executive Orders.

7. In the circumstances, Government allow the Revision Petition filed by Sri M. Hanuma Naik, Assistant Registrar(dismissed from service) and hereby set aside the orders of his dismissal from service issued in proceedings No19547/2012, dt. 3.7.2015 of Addl. Registrar (Services) Office of the Commissioner for Cooperation & Registrar of Cooperative Societies, AP. Hyderabad and the orders rejecting the appeal vide proceedings No. 19547/2012, dt. 17.12.2015 of Commissioner for Cooperation & Registrar of Cooperative Societies, AP, Hyderabad. Sri M.Hanuma Naik, Assistant Registrar is reinstated into service as Asst. Registrar with immediate effect. The Commissioner for Cooperation & Registrar of Cooperative Societies, AP., Guntur is directed to post him to a non–focal point and re-examine the case keeping in view the above points and by following the provisions under APCS(CCA) Rules, 1991 and submit proposal to Government for taking necessary action.

8. The Commissioner for Cooperation & Registrar of Cooperative Societies, AP., Guntur shall take further action in the matter.

(BY ORDER AND IN THE NAME OF GOVENROR OF ANDHRA PRADESH)

T. VIJAYKUMAR,
SPECIAL CHIEF SECRETARY TO GOVERNMENT(A&C)

To
The Commissioner for Cooperation & Registrar of Cooperative Societies,
AP., Guntur.
Sri M. Hanuma Naik, AR(dismissed from service)
Through the Commissioner for Cooperation & Registrar of Cooperative Societies , AP., Guntur
SC/SF

//FORWARDED BY ORDER//

SECTION OFFICER